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FISCAL IMPACT STATEMENT

LS 7479

BILL NUMBER: HB 1573

NOTE PREPARED: Apr 15, 2009

BILL AMENDED: Apr 14, 2009

SUBJECT: Various Professions Matters.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR: Sen. Mishler

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill does the following.

Criminal Histories- The bill specifies requirements for new home health agency and personal service agency employees to provide a limited criminal history or a national criminal history to the agency.

Continuing Education- The bill allows Board-approved activities to meet certain professional's continuing education requirements.

Destroyed Health Records- The bill exempts a health care provider from liability for health records destroyed in a disaster.

Notices and Time Computations- The bill specifies the service of notices and time computations for disciplinary actions.

Registration of Interior Designers- The bill requires the Professional Licensing Agency (PLA) to create an electronic registry for interior designers. The bill establishes registration criteria for interior designers and sets fees. The bill provides that the PLA is not liable for misrepresentations, fraud, or omissions caused by an individual who is registered on the registry.

School Psychologists- The bill specifies education requirements for school psychologists.

Hearing Aid Dispenser Examination- The bill specifies examination requirements for people seeking to dispense hearing aids.

Discontinued Practice Health Records- The bill allows a board that regulates certain health professionals to establish the requirements to manage health records when a practice has been discontinued.

Sports Team Healthcare Practitioners- The bill exempts certain sports team healthcare practitioners who provide treatment for their team members from state license requirements.

Barbers- The bill allows a barber shop and barber school to be inspected before an initial license is issued. The bill removes staggered license barber renewal system. The bill provides that a barber instructor's license and barber's license expire at the same time. The bill allows the Board to issue a provisional license to a barber who comes from a jurisdiction that does not provide licensure if certain requirements are met. The bill allows a person to take the barbers examination not more than five times without additional study. The bill requires 100 hours of additional study before taking a barber exam for the sixth time.

Cosmetology- The bill allows cosmetology schools and certain salons to be inspected before an initial license is issued.

Reciprocity Requirements- The bill amends the education and practice experience requirements for reciprocity for certain professionals.

Beauty Culture, Esthetician, Tanning Facilities- The bill allows the Board to issue a provisional license to a cosmetologist, electrologist, manicurist, or a esthetician who comes from a jurisdiction that does not provide licensure if certain requirements are met. The bill provides that a beauty culture practitioner's license and beauty culture instructor's license expire at the same time. The bill allows an esthetician with a temporary permit to work under the supervision of a cosmetologist. The bill allows the board to inspect a tanning facility before issuing a license.

Dental Recruitment Program- The bill establishes a program to provide grants to recruit dental hygienists and dentists to underserved areas and to increase the number of minority dentists and dental hygienists in Indiana.

Genetic Counselor Licensure- The bill requires the licensure of genetic counselors.

Nurse Anesthetist- The bill allows a certified registered nurse anesthetist to administer anesthesia under certain circumstances.

Massage Therapists- The bill requires a massage therapist to have liability insurance and to provide proof of the therapist's certification.

Temporary Fellowship Permits- The bill reestablishes the allowance of temporary fellowship permits.

Nursing Education Program- The bill allows a nursing education program to employ a registered nurse who meets certain requirements to provide clinical instruction.

Marriage and Family Therapists- The bill allows certain persons who are in a doctoral program to either apply for a marriage and family therapist associate license or accrue clinical experience. The bill provides the means that marriage and family therapist post degree experience is accumulated.

Clinical Social Workers- The bill specifies requirements for a license as a clinical social worker.

Physician Assistants- The bill amends the list of physician assistant (PA) approved programs. The bill amends PA licensure requirements. The bill amends PA temporary licensure requirements and removes the requirement that a PA with a temporary license must practice onsite with the supervising physician. The bill amends the PA inactive license requirements. The bill requires a supervising physician to not have certain disciplinary restrictions and to maintain an agreement with the PA.

Health Service Providers in Psychology- The bill requires a health service provider in psychology to have two years of sequential and organized professional experience in a supervised health service setting as a requirement of endorsement when "sequential and organized" is defined. The bill removes the requirement that the health service provider in psychology must obtain one year of experience after obtaining a doctorate in psychology.

Veterinarian Supervision- The bill allows a veterinarian to directly supervise certain graduates of a foreign college of veterinary medicine.

Real Estate Commission- The bill allows the Real Estate Commission (REC) to use an emergency rule to adopt the Uniform Standards of Professional Appraisal Practice.

Successor Sellers- The bill allows the Board of Funeral and Cemetery Service to designate a successor seller when the initial seller does not comply with certain requirements.

Professional Licensing Study Committee- The bill establishes the Professional Licensing Study Committee.

Repealers- The bill repeals laws concerning: (1) cosmetology license renewal; (2) esthetician reciprocity requirements; (3) inspection of the funeral director examination; (4) PA's definition of "accrediting agency"; (5) use of a PA testing company; and (6) an expired statute concerning temporary fellowship permits. The bill makes conforming changes.

Effective Date: Upon passage; July 1, 2008 (retroactive); July 1, 2009.

Explanation of State Expenditures: *Criminal Histories-* If home health agencies request fewer national criminal history background checks and more limited criminal history background checks, ISP workload may decrease. Limited criminal history information can be requested online whereas, a national criminal history background check must be completed in person to fulfill the fingerprinting requirement. If more limited criminal history background checks are requested online, this may increase the workload of the IOT. Actual changes in workload for ISP and IOT are indeterminable but expected to be minimal.

Destroyed Health Records- This provision would free the Attorney General (AG) from defending the state in a lawsuit if a state health care facility had health care records destroyed during a natural disaster.

(Revised) *Registration of Interior Designers- Electronic Registry:* The PLA would be able to modify their existing software and web interface at no additional cost in order to accommodate an electronic registry. The PLA would have to prepare a recommendation report to the Legislative Council with respect to the registry. The PLA would be able to produce the report within existing resources.

Registration: Electronic payment and registration would reduce the costs to PLA to process registrations. Additionally, the bill would not require the PLA to be responsible for performing review of the contents of an applicant's registration information. This provision would also reduce costs for the PLA to

register interior designers.

Reciprocity Requirements- Professional boards considering changing reciprocity requirements may have to schedule additional meetings to promulgate new rules, which could increase reimbursement for mileage and per diem.

Discontinued Practice Health Records- If health profession boards were to meet more to adopt rules to regulate the storage of discontinued practice health records, reimbursement for mileage and per diem would increase board expenditures.

Real Estate Commission (REC)- Currently, the rule making process can take up to seven months to implement. This provision would lower that time frame considerably, which could provide the REC the ability to focus on other items of business during meetings. The REC is scheduled to meet nine times during the current calendar year.

Barbers- Currently, the PLA faces expiration of one-fourth of all barber licenses every year. The number of barber licenses was 3,799 as of December 15, 2008. The PLA would more efficiently handle their renewal, if the licenses expired on one specific date.

Barber Schools- Barber schools are currently on a biannual renewal cycle. The bill would place their expiration at the time of barber licenses (four years). The bill would also place barber instructor license expiration to coincide with beauty culture instructors. This provision would allow the PLA to set the date of expiration. There would be a very slight savings to the PLA, if barber school licenses were renewed on a four-year instead of a two-year cycle.

School Psychologists & Health Service Providers in Psychology- This provision would have an unknown affect on the number of endorsements for school psychologists and health service providers in psychology in a given year. The impact to state revenues is unknown. As of December 2008, there were 1,590 licensed psychologists. The fee for endorsement is currently \$100.

Dental Recruitment Program- The Indiana Dental Recruitment Fund would consist of payments refunded from dentists not complying with the terms of a recruitment program grant, gifts, and grants from public or private sources.

(Revised) *Genetic Counselor Licensure-* PLA staff members assigned to the Medical Licensing Board (MLB) would likely be able to license the approximately 24 genetic counselors that may seek licensure. In lieu of any additional appropriations, if an additional staff member were needed, the PLA would have to employ the staff member within their existing level of resources. The bill does not provide an appropriation. The MLB would be able to determine fees and make other rules concerning genetic counselor licensure within the course of normally scheduled business meetings.

Repealers and Conforming Changes- Repealing the ability for funeral director applicants to review their exam would allow the PLA to proceed with the outsourcing of this exam, which would reduce the expenditures of the PLA.

Physician Assistants- There would be a reduction in administrative duties and expenditures related to those duties, if it were no longer necessary for the PLA to revoke temporary physician assistant licenses when applicants fail the examination.

(Revised) *Professional Licensing Study Committee (PLSC)*- The PLSC would operate under the Legislative Council's policies governing study committees. The impact to state expenditures would depend on the number of members on the PLSC. During the prior interim, the Legislative Council permitted operating budgets of \$9,500 for committees with fewer than 16 members and \$16,500 for committees with 16 or more members.

[The PLA reverted \$514,160 at the close of FY 2008. As of November 24, 2008, the PLA had one vacancy with salary worth \$40,950. However, recent prior year reversions have been zero or minimal due to the addition of several new boards and commissions, which currently total 39.]

Explanation of State Revenues: *Criminal Histories*- Current law requires all home health agency operators to obtain a national criminal history background check for their employees. Under the bill, home health agency operators would only be required to obtain national criminal history background checks for employees who have resided within the state of Indiana for less than two years prior to their date of hire, until June 30, 2010. Employers will be authorized to obtain limited criminal history information for employees who have resided within the state for longer than two years prior to their date of hire, until June 30, 2010. After June 30, 2010, all criminal history checks of home health agency operators would be national.

To the extent that home health agency operators request limited criminal history check in lieu of a national criminal history background check, state revenue to the General Fund and the Indiana Office of Technology (IOT) Portal Fund would decrease for one additional state fiscal year. The actual decrease in state revenue is indeterminable as the number of home health agency employees who have resided within the state for (1) more than two years, and (2) less than two years, is unknown.

National criminal history background checks total cost is \$32.25. Of the total fee, \$17.25 of which is given to the federal government, and the remaining \$15 is deposited into the state General Fund.

| | Current | As Proposed |
|--------------------------------------|--|--|
| Type of Check and Requirement | All home health care employees required to obtain national criminal history check. | Home health agency operators would be required to collect <u>national</u> criminal history check for all employees who have resided in the state for less than two years. Home health agency operators <u>can</u> request <u>limited</u> criminal history background checks for employees who have resided in the state for more than two years. |
| Fee | National: \$32.25; \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government. | National: \$32.25; \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government. Limited: \$16 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, and \$7 by mail; fee is waived for school corporations. |

Fees vary for limited criminal history background checks and depend on the method in which the information is obtained. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund (see table below). The IOT reports that the Portal Fund is used to maintain and modify AccessIndiana webpages.

| Limited Criminal History Background Check Fees | | | | |
|--|---|---------------|---|--|
| Type of Fee | Information Obtained Through | Amount of Fee | Amount of Fee Deposited into State General Fund | Amount of Fee Deposited into IOT Portal Fund |
| AccessIndiana (Subscriber) | AccessIndiana Website | \$15 | \$7 | \$8 |
| AccessIndiana (Non-Subscriber) | AccessIndiana Website | \$16.32 | \$7 | \$9.32 |
| Mail/In-Person | Mail; In-Person | \$7 | \$7 | \$0 |
| Partial Exemption | AccessIndiana Website; Mail; In-Person | \$7 | \$7 | \$0 |
| Full Exemption | AccessIndiana Website; Mail; In-Person | \$0 | \$0 | \$0 |

(Revised) *Registration of Interior Designers*- Initial registration, biennial renewal, and restoration fees are each \$100. Fee revenue would be deposited in the state General Fund. The amount of revenue that could be generated by this proposal is unknown and would depend on the number of persons registering. Given the registration requirements and the provision that a person could practice as an interior designer without use of the title “registered,” it is possible that less than the number of persons practicing in this profession would register.

Penalty Provision: A person who: uses the title of “registered interior designer,” any title designation sign, card, device indicating they are a registered interior designer without registering, intentionally gives false information; impersonates another certified designer; or uses an expired, suspended, or revoked registration commits a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

Barbers- This provision could increase barber exam revenue fees. Currently, the PLA administers the examination for barbers. Fees from this exam go to the state General Fund. The exam fee is assessed for each sitting. If applicants took more than two opportunities to sit for the barber exam, before having to take remedial education, state revenue could increase. However, the PLA intends to outsource the barber exam in the near future. After outsourcing occurs, the state would no longer receive examination fees from applicants. The requirement for additional hours of training would be reduced by 150 hours, which could lead to an applicant returning for a sixth sitting in a much shorter time frame.

Barber Schools- If the PLA did not adjust fees for barber schools, there would be a revenue loss to the state as a result of barber schools renewing every four instead of every two years. The projected revenue loss would be approximately \$2,400 per four-year period.

Provisional Barber License- The state would receive revenue from fees paid for the proposed provisional barber license.

Beauty Culture, Esthetician, Tanning Facilities- If persons applied for a provisional cosmetology,

electrologist, manicurist, or a esthetician license, the state would receive revenue from the fees established for those licenses.

Reciprocity- the State Board of Cosmetology (SBC) would have the option of to adopt rules that would place a year of licensed practice equal to 100 hours of education with respect to reciprocity with other jurisdictions. This provision could increase the number of applicants to the SBC, which would increase fee revenue upon their successful license approval.

Hearing Aid Dispenser Examination- This provision would have an unknown, but likely minimal effect on the number of hearing aid dispensers licensed. Hearing aid dealer licensing revenue totaled \$11,410 at the end of FY 2008. As of December 2008, there were 223 hearing aid dealers licensed.

Marriage and Family Therapists (MFT)- This provision would have an unknown affect on this profession's license fees. The impact would be determined by the path taken by the MFT candidate as provided in the bill. The bill allows a candidate to either: (1) apply for an associate license by meeting current requirements for licensure under law, or (2) elect to not apply for an associate license and instead accrue clinical experience and apply for an MFT license at the conclusion of their doctoral program.

(Revised) Genetic Counselor Licensing- Money collected from genetic counselor licensing fees would be deposited in the state General Fund. The MLB would determine the fees. If the MLB set the license fee at \$150, which is the same or similar to the fees charged to acupuncturists and speech and language pathologists, the amount of revenue generated in the first year of implementation could be \$3,600. The fee estimate is based on 24 genetic counselors applying in the first year.

Reciprocity- A genetic counselor licensed in another state would be able to receive licensure in Indiana if the requirements of licensure in the other state were "substantially equivalent" to the requirements for licensure in Indiana as proposed. The application fee for a reciprocity license would be determined by the MLB.

Penalty Provision: A person using the title "genetic counselor" or "licensed genetic counselor" without a valid license or temporary license would commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Massage Therapists- MT's that do not display proof of certification when practicing would commit a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

Clinical Social Workers- Clinical social workers would only be required to establish two years of clinical social work experience (post graduate degree) under qualified supervision. Current law requires two years of clinical supervised work experience plus a third year of experience without the requirement of supervision. This provision would shorten the time period for new clinical social workers to become qualified for licensure. If licenses could be obtained more quickly, the state general fund could experience an initial increase in revenue as a result of this provision. The application fee is currently \$50.

Physician Assistants- There may be fewer temporary licenses issued as a result of the bill's changes to the qualifications to hold a temporary license. Currently, a temporary license may be issued if the applicant is

waiting to retake or has taken the NCCPA examination and is awaiting the results of the exam. The impact of this provision on state revenues would be negligible. As of December 2008, there were five temporary Physician Assistants (PA) permits issued.

Additionally, there may be a few additional licenses issued to those that have passed the Physician Assistant National Certifying Examination (PANCE) before 1986. The impact to state revenues is indeterminable. As of December 2008, there were 654 licensed physician assistants. Total licensing revenue for FY 2008 was \$62,896.

Background-

Genetic Counselors- The Indiana Network of Genetic Counselors reports that there are about 24 active practicing genetic counselors in Indiana. The National Society of Genetic Counselors reports a national membership of approximately 2,570.

Interior Designers- The National Council for Interior Design Qualification reports that there are 346 certificate holders with an Indiana address. The Bureau of Labor Statistics estimated there were about 950 interior designers in Indiana as of May 2007.

Explanation of Local Expenditures: (Revised) *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

Criminal Histories- Home health agency employees would need to submit a fingerprint card to complete a national criminal history background check. If the card is obtained through an ISP post, of which there are 18 statewide, it is free. If it is obtained from a local law enforcement agency, fees vary. Fees collected from fingerprint cards are used by the local police department which collects the fee. Actual use of the fees varies by department. If home health agency operators request employees to obtain a limited criminal history background check rather than a national background check, local revenue obtained from the finger print cards may decrease. Actual decreases in revenue are unknown but are expected to be minimal.

State Agencies Affected: PLA.

Local Agencies Affected: Trial courts, local law enforcement agencies; ISP.

Information Sources: Wade Lowhorn & Barbara McNutt, PLA; *Indiana Handbook of Taxes, Revenues, and Appropriations*, LSA; Indiana State Budget Agency: *General and Rainy Day Fund Summaries, June 30, 2008*; Vacancy Report, 11/24/2008; Indiana Network of Genetic Counselors; National Society of Genetic Counselors.

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